

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 13:</b> Adoption/Permanency	<b>Effective Date:</b> October 1, 2019
	<b>Section 8:</b> Evaluating Background Checks for Adoptions	<b>Version:</b> 9

## STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will evaluate the results of all Fingerprint-Based National Criminal History Checks (Fingerprint-Based Checks) on all required persons for the purpose of adoption. The DCS Local Office or Licensing Child Placing Agency (LCPA) adoption worker will evaluate the remaining background checks. See policy, [13.7 Conducting Background Checks for Adoptions](#). The final results will be placed in the child's file and documented in the case management system.

### **Fingerprint-Based Check**

The DCS Central Office Background Check Unit (COBCU) will evaluate the results of the Fingerprint-Based Check and notify the assigned contact person at the DCS local office or LCPA contact person of the criminal history clearance status by e-mailing the Fingerprint-Based Check Status Letter.

The COBCU will conditionally disqualify all persons whose criminal history is incomplete and requires further verification.

**Note:** The subject of the check will remain in a conditionally disqualified status until the subject provides the COBCU with a copy of the required verification of charges, including but not limited to court orders showing disposition and level of conviction, a court order showing dismissal and/or arrest reports. Upon receipt of all necessary verifications, COBCU will re-evaluate the status and issue an amended Fingerprint-Based Check status letter to the assigned DCS local office or LCPA contact person by e-mail.

The COBCU will disqualify all persons whose criminal history report includes the following convictions or pending convictions although some may be eligible to file for a Waiver (see [Waivers](#) section below):

1. Any misdemeanor that may related to the health and/or safety of a child;
2. Any felony;
3. Four (4) or more misdemeanor convictions; or
4. A juvenile adjudication for an act that if committed by an adult would be one (1) of the 30 felonies listed in the Waivers section below.

The COBCU will qualify all persons whose Fingerprint-Based Check Report has no criminal history or reflects arrests and/or convictions that do not result in a conditionally disqualified or disqualified status.

### **Child Protective Services History Checks (CPS) History Checks**

The adoption worker will review the completed CPS history results for persons six (6) years and older from Indiana and all other states of residency within the past five (5) years (if applicable), and the adoption worker will determine if there are reports of any substantiation of child abuse

and/or neglect (CA/N) for the subject of the check. If there is substantiated CPS history in Indiana or the equivalent in another state, the filing and granting of a CPS waiver by COBCU is required for DCS to recommend the adoption (see section on [Waivers](#)).

### **National Sex Offender Registry Check**

The adoption worker will evaluate the National Sex Offender Registry Check to determine if there are any matches. If there is a match, the adoption cannot proceed. Notify the COBCU immediately. The COBCU will re-evaluate the Fingerprint-Based criminal history report.

### **Local Criminal Court Records Check**

The adoption worker will evaluate the results of the Local Criminal Court Records Check. See [Policy 13.7 Conducting Background Checks for Adoption](#) for more information regarding who should complete the Local Criminal Court Records Checks. If the name-based court record check returns a felony, four (4) or more misdemeanors, or a misdemeanor that relates to the health and safety of a child, the adoption worker shall contact COBCU for additional guidance if the fingerprint based status letter was qualified.

### **Waivers**

Upon receipt of the positive written recommendation of support for employment and/or volunteering from the adoption worker<sup>1</sup>, COBCU will accept a request for a waiver of disqualified juvenile history or of substantiated CPS history. COBCU will also accept a waiver of disqualifying criminal history if the subject of the check has not been convicted, or is pending conviction, of any of the felonies listed below (as defined by Indiana Criminal Code):

1. Murder;
2. Causing suicide;
3. Assisting suicide;
4. Voluntary manslaughter;
5. Involuntary manslaughter;
6. Reckless homicide;
7. Feticide;
8. Battery within the past five (5) years;
9. Domestic battery;
10. Aggravated battery;
11. Criminal recklessness within the past five (5) years;
12. Strangulation;
13. Kidnapping;
14. Criminal confinement within the past five (5) years;
15. Human and sexual trafficking;
16. A felony sex offense under ([IC 35-42-4](#));
17. Arson within the past five (5) years;
18. Incest;
19. Neglect of a dependent;
20. Child selling;
21. Reckless supervision;
22. Nonsupport of a dependent child within the past five (5) years;
23. Operating a motorboat while intoxicated within the past five (5) years;
24. A felony involving a weapon under ([IC 35-47](#)) within the past five (5) years;
25. A felony relating to controlled substances under ([IC 35-48-4](#)) within the past five (5) years;

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<sup>1</sup> “Adoption Worker” is defined as the Local Office Family Case Manager or LCPA worker

26. An offense relating to material or a performance that is harmful to minors or obscene under ([IC 35-49-3](#));
27. A felony under [IC 9-30-5](#) (operating a vehicle while intoxicated) within the past five (5) years;
28. A felony related to the health or safety of a child defined in [IC 31-9-2-13\(h\)](#) or an endangered adult (as defined in [IC 12-10-3-2](#));
29. Attempt ([IC 35-41-5-1](#)) to commit a felony described in subdivisions one (1) through 28. If a conviction for a felony is nonwaivable for a stated duration under subdivision one (1) through 28, a conviction for an attempt to commit a felony is nonwaivable for the same duration under this subdivision.
30. A felony that is substantially equivalent to a felony listed in subdivisions one (1) - 29 for which the conviction was entered in another jurisdiction.

DCS cannot recommend the adoption if the subject's background check reveals that an individual living in the home has a disqualified criminal history or criminal and/or CPS history that is not waived by DCS. In addition, a court may not grant an adoption if the petitioner is a sex or violent offender (as defined in [IC 11-8-8-5](#)) or a sexually violent predator (as defined in [IC 35-38-1-7.5](#)).

#### Code References

[IC 31-9-2-84.8: Nonwaivable offenses](#)

### **PROCEDURE**

The adoption worker<sup>2</sup> will complete the following steps:

1. For a Fingerprint-Based Check, review the results letter received from COBCU. Where the Fingerprint-Based Check Status results are a conditionally disqualified or disqualified status:
  - a. Provide a copy of the Fingerprint-Based Check Status Letter to the subject of the check,
  - b. If disqualified, instruct the subject of the check to contact the COBCU consultant listed on the Fingerprint-Based Check Status Letter to determine if the subject of the check is eligible to apply for a Waiver. If eligible and the adoption worker supports the Waiver, instruct the subject of the check that a request for a Waiver must be submitted to the COBCU within 10 days of the date of the Fingerprint-Based Check Status Letter (see #5 below regarding applying for a Waiver), and
  - c. If conditionally disqualified, instruct the subject of the check to contact the COBCU consultant listed on the Fingerprint-Based Check Status Letter within 10 days of the date of the results letter. The subject of the check is to provide the requested documentation to the COBCU consultant. Upon re-evaluation, if the status is disqualified refer to 'b' above.
2. Review the results of the CPS History Check:
  - a. If a substantiated CPS history is discovered, the adoption worker will give the subject of the check a copy of the completed [Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#) form showing substantiated history (see policy, [2.6 Sharing Confidential Information](#)), and
  - b. A request for a CPS Waiver should be filed within ten (10) days of discovering CPS history (see #5 below regarding applying for a Waiver). The request for the waiver

<sup>2</sup> "Adoption Worker" is defined as the Local Office Family Case Manager or LCPA worker

must be granted for the subject of the check, or DCS cannot recommend the adoption.

3. Review the results of the National Sex Offender Registry check for a match to the subject of the check. If there is a match for the subject of the check, the adoption cannot proceed and any children already placed must be removed immediately;
4. Review the results of the Local Criminal Court Records Checks by completing a court record search, including all aliases, within each county court, as well as applicable city courts, in which the subject resided in the past five (5) years. For further instructions about completing Local Criminal Court Records Checks, see the [Local Law Enforcement Agency \(LEA\) Instructions](#);
5. Contact the COBCU Consultant listed on the Fingerprint Based Status Letter within five (5) days if the Local Criminal Court Record Check returns convictions of a felony, four (4) or more misdemeanors, or a misdemeanor related to the health and safety of a child and the fingerprint based status letter was qualified to have the COBCU Consultant re-evaluate the fingerprint based status, and if necessary, issue a new amended status letter. If at any time the adoption worker believes the Local Criminal Court Record Check report may alter the status of the fingerprint based check status the adoption worker will contact the COBCU Consultant listed on the Fingerprint Based Status Letter for further action;
6. To request a Waiver of disqualified criminal history and/or substantiated CPS history submit to the COBCU by fax at 317-234-4633 or scan/e-mail at [cobcu.inquiry@dcsc.in.gov](mailto:cobcu.inquiry@dcsc.in.gov). See [Practice Guidance](#) for a list of required information.
7. Place a copy of the results documents for all background checks and any waiver letters in the child's file and document in case management system.

**Note:** A criminal history or CPS waiver granted for the purpose of adoption may not be used for the additional purposes of foster family home licensure, employment or any other reason. A new waiver request must be submitted and granted for each additional purpose.

The DCS COBCU will:

1. For Fingerprint-Based Checks, evaluate the criminal history report within five (5) business days of receipt and notify by e-mail the assigned DCS local office or LCPA contact person regarding the clearance status;
2. If conditionally disqualified or disqualified provide guidance, re-evaluate history based on the received documentation and issue a new status letter when applicable;
3. For Waivers of disqualified criminal history and substantiated CPS history:
  - a. Upon receipt of the complete waiver request packet, the COBCU will summarize, make a recommendation, and submit the request to the Deputy Director of Juvenile Justice Initiatives and Support, or designee,
  - b. Deputy Director of Juvenile Justice Initiatives and Support, or designee will submit the recommendation to the Background Check Team for a joint decision, and

**Note:** The Background Check Review Team is made up of the Adoption and Youth Connections Programs Manager, the DCS Local Office Director (LOD), Regional Manager (RM), and the Deputy Director of Juvenile Justice Initiatives and Support or their designee. The team's decision may be made via phone or e-mail.

- c. Notify by e-mail the assigned DCS local office or LCPA background check contact person of the waiver decision. A decision will be returned in approximately 10 working days and the status will be either "Waiver granted" or "Waiver not granted".

**Note:** At times, additional information will be requested and this will delay the issuance of the final "Waiver granted" or "Waiver not granted" status. Additional information may be needed to submit a complete waiver or after the waiver is submitted and questions have been asked by the Background Check Waiver Committee members. Failure to submit the requested information by the stated deadline may result in the waiver denial due to failure to cooperate.

4. Contact all necessary verifications and requests as required for a request for a Medical Exception to Fingerprint and submit to the Indiana State Police (ISP) for approval. Upon approval from ISP, generate the Indiana Limited Criminal History (LCH) check and issue a Medical Exception Fingerprint Granted status letter to the DCS Local Office contact person by e-mail if the subject is found to be eligible (see policy, [13.7 Conducting Background Checks for Adoption](#)).

## PRACTICE GUIDANCE

The information below is to be submitted to COBCU in one (1) packet by the adoption worker. The following items are required to be submitted in the waiver packet for the purpose of unlicensed placements:

1. **Letter from the Subject**

A signed letter from the subject of the check requesting a criminal and/or CPS waiver for the purpose of adoption (parent or guardian may write if the subject of the check is a minor and he or she is unable to write his or her own letter; however, the minor should sign if able). The letter should explain in detail the situation involving the arrest and CA/N investigation. The letter should include, but is not limited to the following:

- a. Provide the date, location, and charge of each arrest during the subject's lifetime:
  - i. Indicate which of the arrests resulted in any type of conviction;
  - ii. Indicate the date of conviction, the final conviction charge, and the level (felony or misdemeanor);
  - iii. For the convictions given, indicate the sentence given, time served, time on probation/parole, as well as other court ordered fines, therapy, and other obligations that were court ordered;
  - iv. Indicate if the subject is currently on probation/parole or the date probation/parole was officially ended on each conviction; and
  - v. Provide any information regarding self-referred services related to the conviction or arrest.
- b. Provide the date of each CPS report and assessment involving the subject during his or her lifetime.
  - i. Indicate if the investigation resulted in a substantiation against the subject, and if substantiated, include the date of the substantiation;
  - ii. Include the findings (i.e., physical abuse, sexual abuse, and/or neglect) for those assessments that resulted in a substantiation;
  - iii. Indicate whether the child was removed from the subject's home as a result of the substantiation. If the child was removed, provide an outline regarding the

- length of time out-of-home and indicate whether the child has returned to the subject's home; and
- iv. Identify services the subject participated in and indicate whether these were court ordered services. Also, identify what the subject learned through the services and how the subject's behavior changed as a result of the services.
- c. Provide evidence of the person's rehabilitation, including the person's cooperation with a treatment plan.
  - i. Include and explain past and ongoing treatment if mental illness and/or substance abuse is/was a contributing factor in the previous criminal and/or CPS history of the subject. Provide any supporting documentation; and
  - ii. Explain the subject's ability and long-term plan to provide for the child's safety and well-being in an environment that will allow the child to thrive.
- d. The subject requesting the waiver may also include any additional reference letters or documentation that would support any rehabilitation that has occurred in his or her lifetime.

2. **Letter from the Adoption Worker**

Provide a written recommendation from the adoption worker. The recommendation letter must be signed and submitted on DCS letterhead, sent from the child's FCM business e-mail address or on the adoption worker's LCPA letterhead. The recommendation letter must include the following:

- i. The adoption worker's observations of the subject of the check;
- ii. The adoption worker's recommendation to support or not to support the granting of the adoption criminal/and/or CPS waiver, including reasons to support the recommendation;
- iii. Indicate whether the child has already been placed with the subject requesting the waiver;
- iv. The relation between the child and the subject of the request;
- v. Services being provided in the home;
- vi. Copies of Safety Plans; and
- vii. Details outlined in items a, b, and c in #1 above (Letter From the Subject) from the adoption worker's point of view.

3. **CPS History Check**

A CPS history check must be completed for persons six (6) years and older and submitted for all states in which the subject of the check has resided in the previous five (5) years.

- a. For dates of residency in Indiana, the current version of [Indiana Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#) must be completed in accordance with the published instructions. If any portion of the form is missing information or incorrectly completed, it is not acceptable and will be returned for correction;
- b. For dates of residency outside of Indiana, the adoption worker must obtain and submit the appropriate documentation for confirmation of CPS checks in that specific state;
- c. If there is a substantiation in Indiana, a copy of the approved [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#) for all assessments must be submitted with the CPS waiver request. A screen print from the case management system is not an acceptable substitution for the completion of the appropriate form or copy of the approved [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#). This may



- mean locating the hard copy case file and include supporting documentation from the hard copy file with the waiver submission; and
- d. If substantiation of CA/N is found in another state, the approved assessment (the narrative similar to the [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#)) in Indiana) must be obtained from the other state and submitted with the CPS waiver request.
4. **Screen Print of National Sex Offender Registry Check**  
The National Sex Offender Registry Check is required for any subject 14 years or older. All sex offender searches must be completed on the DRu Sjodin National Sex Offender Public website at <http://www.nsopw.gov>. Any other website search is unacceptable and is duplicating the adoption worker's efforts because the other search sites are all linked to the national site.
    - a. Each name or combination of names the subject has used in his or her lifetime must be searched individually; and
    - b. Upon obtaining results of a name search, the results should be printed. The screenshot must be printed, signed, and dated by the adoption worker. For those results without matches, the adoption worker will also write "NO MATCH" on the printed page that has his or her signature and date the result was reviewed.
  5. **Local Criminal Court Check Results**  
A Local Criminal Court Records Check is required for all persons age 18 and older. For further instructions regarding completing the Local Criminal Court Records Checks, see the [Local Law Enforcement \(LEA\) Instructions](#).
  6. **Local Name Based Arrest Record Checks**  
The Local Name Based Arrest Records Check is a name-based arrest record check with the police or sheriff department. A copy of the written results must be obtained from each of the local LEAs that have jurisdiction to respond to an emergency 911 call at the subject's current home address, as well as all other home addresses in which the subject has resided in the past five (5) years. These searches should be completed for every name or combination of names used by the subject for each LEA. Provide court issued dispositions on arrests.  
  
**Note:** The Local Criminal Court Records Check nor the Local Name Based Arrest Record Check is an ISP Limited Criminal History Check.
  7. **Fingerprint Based Check Status Letter**  
If requesting only a CPS waiver, include a copy of the Fingerprint Based Check Status letter, which was emailed to the adoption worker and was completed for the purpose of adoption showing the fingerprint based status of qualified. This applies to subjects 18 years and older.

## **FORMS AND TOOLS**

1. [Assessment of Alleged Child Abuse or Neglect \(SF113\) \(311\)](#) – Available in the case management system
2. [Background Check Matrix for Adoptions Desk Guide](#)
3. [Indiana Request for a Child Protection Services \(CPS\) History Check \(SF 52802\)](#)
4. Local Law Enforcement Agency (LEA) Instructions

## RELATED INFORMATION

### **Factors for the Adoption Worker and Background Check Review Team to Consider When Recommending and/or Approving the Background Check Waivers**

Information yielded on all background checks should be considered, including, but not limited to the following:

1. The current home environment;
2. The ability of the proposed resource family to provide for the child's safety and well-being;
3. The length of time that has passed since the conviction, juvenile adjudication, or CA/N substantiation;
4. The severity of the offense;
5. Evidence of the person's rehabilitation;
6. The duration and quality of the relationship between the child and the proposed resource family; and
7. Any impact the denial of the placement may have on the ability to keep the sibling group together if siblings are involved.

### **Disclosing Fingerprint-Based Check Information**

Upon request, the DCS local office may receive a copy of the official criminal history transcript that contains the criminal history reported by the Federal Bureau of Investigation (FBI) and the Indiana State Police (ISP). Neither LCPAs nor the subject of the check will receive a copy of the official FBI or ISP transcript. DCS may verbally disclose the specific crimes to the subject of the check. If any of the checks conducted by DCS reveal an inaccurate record, the subject of the check may formally challenge the record. A Review Challenge of inaccurate information must be made to the law enforcement agency that posted the record. To refute inaccurate Indiana criminal history records or information, please request a Review Challenge from ISP.

### **Disqualified Fingerprint Status**

Disqualified status means that unless a Waiver is granted the subject of the check is ineligible to be a:

1. Prospective adoptive parent; or
2. Household member.

### **Conditionally Disqualified Fingerprint Status**

Conditionally Disqualified status means that the subject of the check is ineligible until the conditionally disqualifying arrest or conviction is resolved and the status is changed to Qualified (or the status is changed to Disqualified and a Waiver is subsequently granted) the subject of the check is ineligible to be a:

1. Prospective adoptive parent; or
2. Household member.

Examples of reported information on a fingerprint based criminal history report that will lead to a conditional disqualification include but are not limited to an arrest without a disposition, a conviction without the level of the conviction being a misdemeanor or a felony, or a conviction where additional information on the circumstances of the arrest and conviction are required.



**Qualified Fingerprint Status**

Qualified fingerprint status means that the subject of the check is eligible as a prospective adoptive parent or household member, as long as the subject of the check passes all other background checks.